

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

(West Sacramento, California)

OVERNITE TRANSPORTATION
COMPANY 1/

Employer

and

Kurt Lauer, An Individual

Petitioner

and

CHAUFFEURS, TEAMSTERS AND HELPERS
LOCAL UNION NO. 150, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,
AFL-CIO

Union

20-RD-2350

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 2/
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 3/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer. 4/
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act. 5/
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 6/

All full-time and regular part-time drivers and dock employees employed by the Employer at its West Sacramento facility; excluding all other employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll

OVER

period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by CHAUFFEURS, TEAMSTERS AND HELPERS LOCAL UNION NO. 150, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **NLRB. Wyman-Gordan Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that with 7 days of the date of this Decision 3 copies of an election eligibility list, containing the **full** names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. **North Macon Health Care Facility**, 315 NLRB No. 50 (1994). In order to be timely filed, such list must be received in the Regional Office, 901 Market Street, Suite 400, San Francisco, California 94103, on or before August 5, 2002. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, 1099-14th Street, NW, Washington, DC 20570-0001**. This request must be received by the Board in Washington by August 12, 2002.

Dated July 29, 2002

at San Francisco, California

/s/ Robert H. Miller
Regional Director, Region 20

- 1/ The Employer's name appears as amended at the hearing.
- 2/ No representative of the Union appeared at the hearing. In this regard, the record reflects that the petition and notice of hearing were served on the Union on July 9, 2002. The notice of hearing apprised the Union that a hearing would be held at 10:00 a.m. on July 16, 2002, at place to be designated in Sacramento, California. Thereafter, by letter dated on July 12, 2002, the Union and its attorney were notified that the hearing would be held on July 16, 2002, at 10:00 a.m. at 650 Capitol Mall, 8th Floor Conference Room in Sacramento, the place where the hearing was, in fact, held.
- 3/ The record reflects that the Employer is a Virginia corporation, with headquarters in Richmond, Virginia, and with 212 service centers in the continental United States. The service center involved in the instant proceeding is located in West Sacramento, California. Michael Black, the manager of the Employer's West Sacramento service center testified that the Employer is engaged in the interstate transportation of freight. Black testified that in the regular course of his employment, he receives data reflecting the gross annual revenue of the Employer from the Employer's corporate offices. Black further testified that during the twelve month period ending July 16, 2002, the Employer's Sacramento service center sold goods or services valued in excess of \$50,000 directly to enterprises located outside the State of California. The record contains profit and loss statements from the months January through June, 2002, which show that the Employer derived gross revenues in excess of \$3,000,000 at the West Sacramento service center. In these circumstances, I find that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the purposes of the Act to assert jurisdiction herein.
- 4/ The record reflects that on February 3, 1995, the Union was certified in Case 20-RC-17076 as the exclusive collective-bargaining representative of the Employer's employees in the following unit:

All full-time and regular part-time drivers and dock employees employed by the Employer at its West Sacramento facility; excluding all other employees, guards and supervisors as defined in the Act.

Thus, the Union is a labor organization within the meaning of Section 2(5) of the Act.

- 5/ No party contends that there is a contract bar to this proceeding.
- 6/ The instant petition was filed on July 8, 2002, seeking a decertification election in a unit comprised of all drivers and dock workers employed at the Employer's 900 "E" Street, West Sacramento, California facility; excluding all

supervisors, managers, mechanics, office clerical employees, and guards as defined in the Act. Service Center Manager Black testified that while the number of employees have increased since the Union was certified to represent the employees at the West Sacramento facility in 1995, there have been no changes in the classifications of employees employed from those set forth in the description of the unit contained in the Certification of Representative.

It is well established that the appropriate unit in a decertification election must be coextensive with the certified or recognized unit. Campbell's Soup Co., 111 NLRB 234 (1955). Accordingly, the unit appears as described in the certification of representative issued in case 20-RC-17076.

355-3301-0000-0000